

STATE OF ARIZONA
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STATE OF ARIZONA

OCT 2 2002

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY [Signature]

1 In the Matter of)
 2)
 3)
 4 **FOUNDATION RESERVE**)
INSURANCE COMPANY)
 5 **(NAIC No. 23051)**)
 6)
 7 Respondent.)

Docket No. 02A-165 -INS

CONSENT ORDER

8 The State of Arizona, Department of Insurance (the "Department"), has received evidence that
 9 Foundation Reserve Insurance Company ("Respondent") violated provisions of Arizona Revised
 10 Statutes ("A.R.S."), Title 20. Respondent wishes to resolve this matter without the commencement of
 11 formal proceedings, and admits the following Findings of Fact are true and consents to the entry of the
 12 following Conclusions of Law and Order.

FINDINGS OF FACT

- 13
- 14 1. Respondent Foundation Reserve Insurance Company ("Respondent") is domiciled in
 15 New Mexico and presently holds a certificate of authority issued by the Arizona Department of
 16 Insurance ("Department") to transact casualty, property and vehicle insurance.
- 17 2. The Respondent's Quarterly Statement as of June 30, 2002 reported a negative surplus of
 18 (\$299,759), which is less than the minimum free surplus of \$250,000 Respondent is required to maintain
 19 in accordance with A.R.S. §20-211, and which represents an adverse finding with respect to the financial
 20 condition of the Respondent within the meaning of A.A.C. R20-6-308(A)(1).
- 21 3. For the twelve months ended June 30, 2002, the Respondent's Quarterly Statement
 22 reported a net loss of (\$3,512,974). This loss exceeds 50% of the Respondent's remaining surplus as
 23

1 regards policyholders that is in excess of the minimum required, or \$846,008, which represents an
2 adverse finding with respect to the financial condition of the Respondent within the meaning of A.A.C.
3 R20-6-308(A)(7).

4 4. On September 6, 2002 the New Mexico Superintendent of Insurance issued a Stipulated
5 Order (Docket No. 02-232-IN) finding that Respondent is in hazardous financial condition under New
6 Mexico law, and appointing a designee responsible for overseeing the efforts of Respondent's Board of
7 Directors to rectify Respondent's hazardous condition and its effect on Respondent's other operations.

8 5. Respondent is in unsound condition or in such condition as to render its further
9 transaction of insurance in this state hazardous to the policyholders or to the people of this state, within
10 the meaning of A.R.S. §20-220(A)(3) and A.A.C. R20-6-308.

11 6. Respondent no longer meets the requirements for the authority originally granted, on
12 account of deficiency in assets or otherwise, within the meaning of A.R.S. §20-219(2).

13 CONCLUSIONS OF LAW

14 1. The Director has jurisdiction over this matter.

15 2. Respondent is in unsound financial condition or in such a condition as to render the
16 further transaction of insurance in this State hazardous to its policyholders or to the people of this State
17 within the meaning of A.R.S. §20-220(A)(3).

18 3. Renewal of Respondent's motor vehicle insurance policies would place Respondent in
19 violation of the laws of this state or would jeopardize Respondent's solvency within the meaning of
20 A.R.S. §20-1631(D)(6).

21 4. Grounds exist for the Director to suspend or revoke Respondent's certificate of authority
22 pursuant to A.R.S. §§ 20-219(2) and 20-220(A).

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ORDER

IT IS ORDERED suspending the Arizona certificate of authority held by Respondent and prohibiting the issuance of new and renewal insurance business, including motor vehicle policies pursuant to A.R.S. §20-1631(D)(4) and (D)(6), effective immediately, except that Respondent shall extend existing policies for the minimum period necessary to provide timely notice of non-renewal to the policyholder as required by Arizona Revised Statutes and the insured's policy.

DATED AND EFFECTIVE this 2nd day of October, 2002.



CHARLES R. COHEN
Director of Insurance

CONSENT TO ORDER

1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and Order.
2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law and Order.
3. Respondent is aware of its right to notice and a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent irrevocably waives its right to such notice and hearing and to any court appeals relating to this Consent Order.
4. Respondent states that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.

5. Respondent acknowledges that the acceptance of this Consent Order by the Director is solely to settle this matter against it and does not preclude any other agency, officer or subdivision of this State from instituting civil or criminal proceedings as may be appropriate now or in the future.

FOUNDATION RESERVE INSURANCE COMPANY

9/27/02
Date

By: 
Its: President of CEO

COPY of the foregoing mailed/hand-delivered this 2nd day of October, 2002, to:

Warren D. Smalley
President and CEO
Foundation Reserve Insurance Company
3900 Singer NE
Albuquerque, New Mexico 87109

John G. Franchini
Government Affairs Officer
Foundation Reserve Insurance Company
P.O. Box 27825
Albuquerque, New Mexico 87125-7825

Nestor J. Romero
New Mexico Department of Insurance
P.O. Drawer 1269
Santa Fe, New Mexico 87504-1269

Michael E. Surguine
Arizona Property and Casualty Insurance Guaranty Fund
1110 West Washington Street, Suite 270
Phoenix, AZ 85007

Mary Kosinski
Assistant Attorney General
Arizona Attorney General's Office
1275 West Washington
Phoenix, Arizona 85007

- 1 Sara Begley, Deputy Director
- Mary Butterfield, Assistant Director
- 2 Steve Ferguson, Assistant Director
- Deloris Williamson, Assistant Director
- 3 Scott Greenberg, Chief Operating Officer
- Paul Hogan, Market Conduct Chief Examiner
- 4 Kurt Regner, Chief Financial Analyst
- Leslie Hess, Financial Affairs Legal Analyst
- 5 Arizona Department of Insurance
- 2910 N. 44th Street, Suite 210
- 6 Phoenix, Arizona 85018

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8 Curvey Walters Burton

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